

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

ALFREDO HERRERA, <i>et al.</i> ,	:	CASE NO: 1:15-cv-01786
JOSE GARCIA, <i>et al.</i>	:	CASE NO: 1:14-cv-01514
	:	
Plaintiffs,	:	JUDGE JAMES S. GWIN
	:	
v.	:	<b><u>PARTIES' JOINT MOTION FOR COURT</u></b>
	:	<b><u>APPROVAL OF SETTLEMENT AND</u></b>
SAR FOOD OF OHIO, INC.,	:	<b><u>DISMISSAL OF CLAIMS WITH</u></b>
	:	<b><u>PREJUDICE</u></b>
Defendant.		

Plaintiffs Alfredo Herrera, Jose Blanco, Emilio Cerna, Eliseo Diaz Diaz, Edwin Perez, and Adam Biccs ("Plaintiffs"), Plaintiff Raymond Sutton ("Sutton"), and Defendant SAR Food of Ohio, Inc. ("SAR Food") (collectively "Parties"), by and through their undersigned counsel, jointly and respectfully move the Court for approval of their settlement. In support of this Motion, the Parties state as follows:

1. In the lawsuit captioned *Alfredo Herrera, et al. v. SAR Food of Ohio, Inc.*, Case No. 1:15-cv-01786 ("Herrera Lawsuit"), Plaintiffs alleged violations of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201, *et seq.*, seeking damages for alleged unpaid wages.

2. In the lawsuit captioned *Jose Garcia, et al. v. SAR Food of Ohio, Inc.*, Case No. 1:14-cv-01514 ("Sutton Lawsuit"), Sutton alleged (a) violations of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201, *et seq.*, seeking damages for alleged unpaid wages and overtime wages; and (b) violations of the wage-and-hour statutes of the State of Ohio. On November 20, 2015, Sutton filed a Notice of Appeal of the Sutton Lawsuit to the Sixth Circuit Court of Appeals, *Raymond Sutton v. SAR Food of Ohio, Inc.*, Case No. 15-4272 ("Sutton Appeal").

3. The Parties had a *bona fide* dispute concerning the validity and merits of Plaintiffs' and Sutton's FLSA and other claims. SAR Food asserts that Plaintiffs and Sutton

were properly and lawfully compensated throughout their employment with SAR Food, and that SAR Food did not violate the FLSA or any other law as alleged in both lawsuits.

4. The Parties conducted research regarding the various relevant legal issues involved.

5. By means of extensive negotiations between counsel for Plaintiffs and Sutton and counsel for SAR Food—including the Case Management Conference before Judge James S. Gwin on December 11, 2015—the Parties discussed all relevant factual and legal issues and eventually reached what they believed to be a fair and equitable global settlement. As a result, the Parties have agreed to resolve all disputes between them relating to the matters asserted in both the Herrera Lawsuit and Sutton Lawsuit.

6. The settlement provides substantial individual payments to Plaintiffs Herrera, Blanco, Cerna, Diaz, Perez, Biccs, and Sutton representing all or a substantial percentage of the monetary value of their claims, while the agreed-upon payment of attorneys' fees constitutes a fraction of the lodestar amount actually earned by Plaintiffs' counsel. The specific monetary terms of the Parties' settlement are set forth in the Settlement Agreement, and the parties have agreed that the terms of their settlement shall be and remain confidential, except for limited allowable disclosures specified in the Agreement.

7. The Parties jointly assert that the resolution embodied in their Settlement Agreement pertains to a *bona fide* dispute and is fair, reasonable and consistent with the purposes of the FLSA. Each Party was independently represented by competent legal counsel having experience litigating claims under the FLSA. Each counsel was obligated to and did vigorously represent his client's rights and interests throughout this process. The Parties agree that there was no fraud or collusion.

8. The factual complexity of the case, expense, and potential length of future litigation also militate in favor of this settlement. The Parties continue to fundamentally disagree over the merits of Plaintiffs' and Sutton's claims. If the Parties were to continue to litigate this matter, they would be forced to engage in costly litigation in the effort to prove their claims and defenses. This settlement, therefore, is a reasonable means for all Parties to minimize future risks and litigation costs.

9. There has been sufficient investigation and exchange of information to allow counsel to reach a fair and reasonable resolution of this matter. In agreeing upon the proposed settlement, the Parties had sufficient information and conducted an adequate investigation to allow them to make an educated and informed analysis of the claims.

10. The Parties stipulate to the reasonableness of Plaintiffs' and Sutton's counsel's proposed fees as included in Section 2 of the Settlement Agreement. The Parties also stipulate that the settlement terms are fair, reasonable and adequate. As noted, the settlement provides individual payments to Plaintiffs Herrera, Blanco, Cerna, Diaz, Perez, Biccs, and Sutton representing all or a substantial percentage of the value of their claims, while the agreed-upon payment of attorneys' fees constitutes a fraction of the lodestar amount actually earned by Plaintiffs' counsel.

WHEREFORE, Plaintiffs Alfredo Herrera, Jose Blanco, Emilio Cerna, Eliseo Diaz Diaz, Edwin Perez, Adam Biccs, and Raymond Sutton, and Defendant SAR Food of Ohio, Inc., jointly and respectfully request that this Honorable Court enter an Order: (i) granting this Motion; and (ii) approving the settlement of the claims described herein.

Respectfully submitted,

/s/ Ryan A. Winters

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### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on January 11, 2016, a copy of the foregoing **Parties' Joint Motion for Court Approval of Settlement** was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt.

s/ Thomas A. Downie

Thomas A. Downie (0033119)

*One of the Attorneys for Plaintiffs*